



# State of the Congressional Workplace

## 2021 Annual Report

A Report on Workplace Rights, Safety  
and Health, and Accessibility under the  
Congressional Accountability Act





**The Congressional Accountability Act of 1995 (CAA) applies workplace protections to the more than 30,000 employees of the legislative branch, including unpaid staff.<sup>1</sup> The Office of Congressional Workplace Rights (OCWR) administers and ensures the integrity of the CAA through its programs of education, dispute resolution, inspection, and enforcement. This Annual Report covers the OCWR’s activities and accomplishments from January 1, 2021 through December 31, 2021.**

<sup>1</sup> Enacted on December 21, 2018, the Congressional Accountability Act of 1995 Reform Act (Reform Act) amended the Congressional Accountability Act (CAA) and changed the name of the Office of Compliance (OOC) to the Office of Congressional Workplace Rights (OCWR).

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## CONGRESSIONAL WORKPLACES COVERED BY THE CAA



Commission on Security and Cooperation in Europe (Helsinki Commission)



Congressional Budget Office



Congressional-Executive Commission on China



Government Accountability Office\*



Library of Congress\*\*

Office of Attending Physician



Office of the Architect of the Capitol



Office of Congressional Accessibility Services



Office of Technology Assessment



Stennis Center for Public Service



United States Capitol Police



United States-China Economic and Security Review Commission



United States Commission on International Religious Freedom



United States House of Representatives



United States Senate

\*Certain provisions of the CAA do not apply to the Government Accountability Office (GAO); however, GAO employees may have similar legal rights under different statutory provisions.

\*\*The Library of Congress is covered except under Section 1351 of the CAA.

# Your Rights in the Congressional Workplace

Legislative branch employees are protected by the CAA. Please visit [ocwr.gov](https://ocwr.gov) for more information about the rights cited below, or contact the OCWR at (202) 724-9250. All contacts are confidential.

## **Protection From Unlawful Discrimination**

Prohibits harassment and discrimination in personnel actions based on race, color, national origin, sex, religion, age, or disability.

2 U.S.C. § 1311 (Section 201)

## **Family and Medical Leave**

Provides rights and protections for employees taking or requesting leave for specified family and medical reasons.

2 U.S.C. § 1312 (Section 202)

## **Fair Labor Standards**

Requires the payment of minimum wage and overtime compensation to nonexempt employees, restricts child labor, and prohibits sex-based wage differentials.

2 U.S.C. § 1313 (Section 203)

## **Polygraph Testing Prohibition**

Generally, prohibits requiring or requesting that an employee take a polygraph test; using, accepting, or inquiring about the results of a polygraph test; or firing or discriminating against an employee based on the results of a polygraph test or for refusing to take a test.

2 U.S.C. § 1314 (Section 204)

## **Notification of Office Closings and Mass Layoffs**

Under certain circumstances, requires that employees be notified of an office closing or of a mass layoff at least 60 days in advance of the event.

2 U.S.C. § 1315 (Section 205)

## **Uniformed Services Rights and Protections**

Protects the job rights of individuals who leave employment positions to undertake military service and prohibits discrimination on the basis of present or past membership in the uniformed services.

2 U.S.C. § 1316 (Section 206)

## **Protection for Exercising Workplace Rights**

Prohibits employing offices from intimidating or retaliating against employees who exercise their rights under the CAA.

2 U.S.C. § 1317 (Section 208) (formerly Section 207)

## **Accessibility**

Protects members of the public with disabilities from being denied access to public services, programs, activities, or places of public accommodation in the legislative branch.

2 U.S.C. § 1331 (Section 210)

## **Hazard-free Workspaces**

Requires employing offices to comply with occupational safety and health standards and to provide workplaces free of recognized hazards.

2 U.S.C. § 1341 (Section 215)

## **Collective Bargaining and Unionization**

Protects the rights of certain legislative branch employees to form, join, or assist a labor organization or to refrain from such activity.

2 U.S.C. § 1351 (Section 220)

## **Genetic Information Nondiscrimination and Privacy**

Prohibits the use of genetic information as a basis for personnel actions.

2 U.S.C. § 1302(c) (Section 102(c))

## **Veterans' Employment Opportunities**

Gives eligible veterans enhanced access to certain job opportunities and establishes a redress system in the event that their veterans' preference rights are violated.

2 U.S.C. § 1316a (VEOA Section 4(c))

## **Fair Chance to Compete for Jobs**

Prohibits employing offices from asking most job applicants about their criminal history prior to extending conditional offers of employment.

2 U.S.C. § 1316b (Section 216b)

# Statement from the Chair of the Board



On behalf of the Board of Directors, I am pleased to present the Office of Congressional Workplace Rights' Annual Report for 2021. This report details the work of our office in pursuing our mission to advance workplace rights, safety, health, and accessibility in the legislative branch through the administration of the Congressional Accountability Act of 1995 Reform Act.

This year marks the 26th anniversary of the passage of the CAA, and the second full year implementing the provisions of the CAA Reform Act. I am pleased to report that, despite the challenges of 2020–2021 and the COVID-19 pandemic, the OCWR ably performed its essential and ongoing mission, sustaining its many programs and services for the benefit and protection of the legislative branch community. This would not have been possible without the continued support of stakeholders in the congressional community, including the Members and staff of the U.S. House of Representatives and the U.S. Senate, as well as employing offices, labor organizations, and employees who work on Capitol Hill and in offices throughout the country.

The OCWR is one the smallest organizations of its kind, yet its mandate under the CAA, to apply

14 workplace and accessibility laws to the legislative branch, is very broad. The work we do on behalf of the legislative branch is equivalent to that performed by numerous executive branch agencies, including the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, the Department of Labor, and the Department of Justice. Our collective undertaking seeks to provide the most effective services for advancing workplace protections and public access for the congressional community, including the 30,000 legislative branch employees working on Capitol Hill and in 1,200 offices nationwide, and the 1.3 million annual visitors to the Capitol.

The OCWR developed a Strategic Plan for 2021–2026 that fully aligns with the CAA Reform Act and provides a renewed vision for the OCWR. This report examines the OCWR's activities and achievements in 2021, and reports on the progress made toward the goals outlined in its new Strategic Plan.

It continues to be an honor to serve the legislative branch community in carrying out our broad mandate. The Board and OCWR staff look forward to building on our successes in the years to come.

**Sincerely,**  
Barbara Childs Wallace  
Chair, Board of Directors

# Statement from the Acting Executive Director



On behalf of the Office of Congressional Workplace Rights, I am pleased to submit our Annual Report for 2021. Notwithstanding the fact that the COVID-19 pandemic presented many operational challenges in 2020–2021, the OCWR steadfastly pursued its essential and ongoing mission to advance workplace rights, safety, health, and accessibility in the legislative branch.

The CAA was passed with overwhelming bipartisan support more than 25 years ago. This landmark legislation embodies a promise by Congress to the American people that it will abide by the same federal workplace and accessibility laws that it applies to private sector employers and executive branch agencies. When the CAA was enacted, it established the Office of Compliance, now the OCWR, to ensure that the promises embodied in the CAA are kept.

In December of 2018, the Congressional Accountability Act of 1995 Reform Act, S. 3749, was signed into law. The Reform Act, effective in June 2019, made many important changes that dramatically expanded the OCWR's duties and responsibilities, as well as the number of employees covered by the CAA. Not only has the OCWR obtained more than 2 years of experience operating under these

reforms, but it has done so while primarily working remotely as a result of the COVID-19 pandemic.

The OCWR steadfastly pursued its ongoing mission to effectively implement the workplace provisions of the CAA in 2021. The OCWR launched a new website with enhanced features to provide visitors with access to important information. The website is fully compliant with Section 508 of the Rehabilitation Act of 1973, ensuring full accessibility and usability. The OCWR's confidential advisor ably informed covered staff of their rights and responsibilities under the CAA. The Office timely responded to telephone calls and e-mail inquiries from employees, employers, unions, and representatives with questions about workplace rights, safety, and accessibility. Covered legislative branch employees seeking to assert their workplace rights were able to file claims remotely via a secure e-filing system that permits OCWR staff to monitor and process claims, and all matters were processed in accordance with statutory deadlines. Hearings and mediations were conducted remotely using secure web-conferencing and videoconferencing applications, and the Office of the Clerk of the OCWR worked closely with all parties to ensure that proceedings ran smoothly.

The OCWR also made significant progress on other Reform Act initiatives, including revising virtually all of its publications and education and training materials. OCWR trainers have been delivering remote training sessions tailored to meet the needs of employees and employing offices throughout the legislative branch. The OCWR's occupational safety and health (OSH) program also continued with inspection meetings conducted remotely. When a physical inspection was required, OCWR inspectors have been on-site while maintaining social distancing and adhering to Office of Attending Physician and Centers for Disease Control and Prevention guidelines. The OCWR's Office of the General Counsel also delivered virtual Brown Bag Lunch presentations to the legislative branch community, covering topics such as recent cases deciding potential CAA issues and pandemic-related concerns.

The OCWR is proud of the important work it does for the legislative branch community, and we look forward to meeting the challenges that lie before us in the coming years.

**Sincerely,**  
Teresa M. James  
Acting Executive Director



# Advancing Workplace Protections in the Legislative Branch

The Congressional Accountability Act (CAA) applies provisions of 14 workplace and accessibility laws to the legislative branch, and establishes the Office of Congressional Workplace Rights (OCWR) as an independent office within the legislative branch to administer these provisions.



It is the OCWR's mission to advance workplace rights, safety and health, and accessibility in the legislative branch.

To carry out its mission, the OCWR administers programs that protect the rights of employees to a safe and inclusive work environment:

- The administrative dispute resolution (ADR) program offers advice and information to covered employees on a confidential basis, and administers a fair and impartial process to resolve employee claims alleging a violation of workplace protections under the CAA.
- The OCWR's occupational safety and health (OSH) program ensures that workspaces in the legislative branch are safe and accessible. The team of OSH specialists inspects workplace facilities to ensure a legislative branch free from recognized hazards and enforces the mandate that public services and accommodations under Title II and Title III of the Americans with Disabilities Act (ADA) remain accessible.

- The education and outreach program informs the covered community of its workplace rights and responsibilities under the CAA and the programs and services provided by the OCWR in administering the provisions of the Act.

In addition to these critical services, the OCWR's Board of Directors makes recommendations to Congress on whether laws and regulations not applied by the CAA should be made applicable to the legislative branch.

Carrying out its responsibilities under the CAA, the OCWR is guided by its Strategic Plan for 2021-2026. The Strategic Plan sets important goals and determines initiatives and performance measures to achieve those goals. This Annual Report tracks the OCWR's progress towards each of its strategic goals, including its progress on the performance measures set forth in the Strategic Plan. The strategic goals, initiatives, and performance measures laid out in this Annual Report can be found in the OCWR's 2021-2026 Strategic Plan, which is available on the OCWR website.



# Education and Outreach and the Board of Directors

## Strategic Plan Goal 1

### Strategic Goal 1— Advance understanding of workplace rights and best practices through education and outreach to the congressional community

The 2021–2026 Strategic Plan recognizes the central importance of the OCWR’s mandate to educate employees and employing offices of the legislative branch on their rights and responsibilities under the laws applied by the CAA, including the right to work in an environment free from discrimination and harassment. Keeping staff informed of their workplace protections supports a healthy, productive, and civil work environment. In keeping with its education and outreach goal, the Office has launched two strategic initiatives to raise the profile of its training program on Capitol Hill and to ensure consistent, effective stakeholder engagement.

#### A. Strategic Initiative

*Become the preferred training resource for the legislative branch*

In 2021, the OCWR reviewed its educational materials, updated existing training modules, and created new courses that support a safe and productive work environment for all staff.

Due to the ongoing COVID-19 pandemic and remote work environment, the OCWR expanded its use of

web-conferencing tools to deliver effective training remotely. In 2021, the OCWR conducted 33 online training sessions and one in-person session.

To ensure effective training in the virtual environment, the OCWR utilized web-conferencing platforms that streamlined communication during training sessions. Web conferencing permitted attendees to ask questions anonymously and staff to provide responses privately, if requested. It also enabled attendees to respond to polls and quizzes in real time, and assisted the OCWR in creating training certificates upon request.

Following each virtual training session, attendees were invited to respond to a voluntary and anonymous survey. The survey asks attendees whether the information provided was helpful and presented clearly, and whether the trainers were responsive to questions. It also asks whether attendees are familiar with the OCWR. The information gathered is used to improve the effectiveness of the training modules, consider new topics for instruction, and obtain other useful training metrics.

In 2021, the first virtual OCWR “pop-up” webinar for legislative branch employees was presented.

**YOUR RIGHTS**  
in the Congressional Workplace

The Congressional Accountability Act (CAA) applies certain employment, labor, safety and health, and accessibility rights and protections to covered employees of the legislative branch, including, in some cases, unpaid staff. The Office of Congressional Workplace Rights (OCWR) administers a process to resolve claims alleging violations of these laws. Confidential advising is available.

- 1. Unlawful Discrimination & Harassment**  
Prohibits harassment and discrimination on general grounds (race, color, national origin, sex, religion, age, or disability). C.A.A. § 101 (2)(A) (3)-(5), 5 U.S.C. § 1105 (2)(A) (3)-(5).
- 2. Family & Medical Leave**  
Provides rights and protections for employees needing leave for unpaid family and medical reasons. C.A.A. § 101 (2)(A) (6), 5 U.S.C. § 1105 (2)(A) (6).
- 3. Veterans & Servicemembers**  
Reserves employees who are past or present members of the uniformed services for the protection of employment and provides certain benefits and reemployment rights. C.A.A. § 101 (2)(A) (7), 5 U.S.C. § 1105 (2)(A) (7).
- 4. Polygraph Testing**  
Prohibits the use of polygraphs in employment settings. C.A.A. § 101 (2)(A) (8), 5 U.S.C. § 1105 (2)(A) (8).
- 5. Retaliation**  
Prohibits retaliation, reprisal, or discrimination against employees who exercise their rights under the CAA. C.A.A. § 101 (2)(A) (9), 5 U.S.C. § 1105 (2)(A) (9).
- 6. Fair Labor Standards**  
Requires minimum wage and overtime compensation for covered employees, unless a legislative and judicially created exemption applies. C.A.A. § 101 (2)(A) (10), 5 U.S.C. § 1105 (2)(A) (10).
- 7. Genetic Information**  
Prohibits the use of genetic information in hiring, personnel actions, or other employment actions. C.A.A. § 101 (2)(A) (11), 5 U.S.C. § 1105 (2)(A) (11).
- 8. Mass Layoffs**  
Requires that employees be notified of an office closing or a mass layoff. C.A.A. § 101 (2)(A) (12), 5 U.S.C. § 1105 (2)(A) (12).
- 9. Fair Chance to Compete for Job**  
Prohibits employing offices from taking more job applicants than the number of positions for which the employing office is authorized. C.A.A. § 101 (2)(A) (13), 5 U.S.C. § 1105 (2)(A) (13).

The OCWR provides staff with confidential advising services. To receive a copy of a copy of the CAA, an employee may file the claim with the OCWR within 90 days of the alleged violation. Claims and hearing opportunities remain open and may go to a hearing on the merits, or the employee may file in federal district court. Mediation is also available to the parties.

The OCWR also enforces the laws below. Contact us to learn more.

- Accessibility**  
Prohibits discrimination on the basis of disability in employment. C.A.A. § 101 (2)(A) (14), 5 U.S.C. § 1105 (2)(A) (14).
- Collective Bargaining & Unions**  
Prohibits discrimination on the basis of union membership or affiliation. C.A.A. § 101 (2)(A) (15), 5 U.S.C. § 1105 (2)(A) (15).
- Unpaid Staff**  
Prohibits discrimination on the basis of unpaid staff status. C.A.A. § 101 (2)(A) (16), 5 U.S.C. § 1105 (2)(A) (16).

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Second Quarter 2021 OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS

**e-Newsletter**

Information on workplace rights, safety and health, and accessibility in the legislative branch

**OCWR Inspections on Campus**

The Office of Congressional Workplace Rights (OCWR) has a team of occupational safety and health (OSH) specialists that works to ensure that the more than 14 million square feet of legislative branch buildings and grounds are safe and accessible for employees and the visiting public with disabilities. The team has been hard at work on the Capitol Hill campus inspecting facilities as required by the Congressional Accountability Act (CAA), which applies parts of the OSH Act to the legislative branch. The OSH team also responds to safety and health concerns raised by employees and employing offices in the legislative branch.

A safety and health inspection may be requested at <https://www.ocwr.gov/inspections/submit-osh-inspection-form.pdf>.

To seek an ADA inspection or to file a charge alleging an ADA violation, go to <https://www.ocwr.gov/ada-requests>.

District and area offices may conduct safety inspections for fire and electrical safety hazards. Find the form at <https://www.ocwr.gov/inspections/submit-osh-inspection-form.pdf>.

For more information on the OSH program at the OCWR, contact the office at 202-724-9250 or email [OSH@ocwr.gov](mailto:OSH@ocwr.gov).

**OCWR Training Catalog**

The OCWR Outreach and Education Team has a new training catalog that provides an updated and accessible program of education and training to inform legislative branch staff of their workplace rights and protections under the CAA. The new catalog includes eight training webinars, including content on the CAA, bystander intervention, and Civility and Inclusion, and can be found on the OCWR Resources and Training page at [www.ocwr.gov](https://www.ocwr.gov).

The OCWR training program is designed to promote compliance with the CAA and to support a safe, civil, and productive legislative branch workplace.

All programs provide opportunities for audience engagement, and staff are actively encouraged to participate. Please contact the OCWR at [ocwrtraining@ocwr.gov](mailto:ocwrtraining@ocwr.gov) or call 202-724-9250 for more information on building a training program specifically designed for your office.

Don't miss updates on Alerts, Twitter, Instagram, LinkedIn, and Facebook

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Covered staff were invited to register in advance for the webinar. The session reviewed the substantive provisions of the CAA, the procedures to assert workplace rights, and the role of the OCWR in administering and enforcing the CAA, including the necessary deadlines involved in the claims process.

In addition to in-person training, the OCWR produced an informative training video that explores the meaning and impact of implicit bias. The video can be found on the OCWR website at [ocwr.gov](http://ocwr.gov).

The OCWR also created and delivered hundreds of notices of workplace rights for posting in legislative branch offices throughout the country, and disseminated to staff e-Newsletters, brochures, and fact sheets with important information on their workplace protections. The notice of workplace rights remains available for download on the OCWR's website.

The OCWR also remotely conducted its second annual Hearing Officer and Mediator Summit in May 2021. This event provided an opportunity for OCWR staff, hearing officers, and mediators to discuss relevant issues and share best practices. Participants observed a mock hearing and engaged in open

discussions about the ADR process for a very insightful session.

**Performance Measure 1.A**

*The OCWR will increase by 10% each year the number of OCWR training attendees. The OCWR will develop and effectively deliver training modules consistent with the CAA in response to every stakeholder request.*

In 2020, the OCWR trained 434 attendees via web conferencing. In 2021, the OCWR trained 883 attendees. This is a 101% increase over the previous year. Further, the OCWR received 33 stakeholder requests for training and developed and delivered a training to meet each request. The OCWR has met and exceeded Performance Measure 1.A for 2021.

**B. Strategic Initiative**

*Actively engage with employing offices, staff, and their representatives to safeguard and advance the principles of the CAA*

The OCWR is a reliable and valued resource for employees and offices of the legislative branch. Through trusted relationships with stakeholders, the OCWR has successfully safeguarded and expanded workplace protections. When Congress passed the CAA Reform Act, it implemented many of the Board's prior recommendations for statutory change set forth in its Section 102(b) Reports, including the recommendation that anti-discrimination, anti-harassment, and anti-retaliation training be mandatory for all Members, offices, and employees, and that workplace protections be extended to unpaid staff. The responsiveness

**HEARING OFFICER AND MEDIATOR SUMMIT**

**May 21, 2021**

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[www.ocwr.gov](http://www.ocwr.gov)



U.S. House of Representatives and the U.S. Senate. Board members are attorneys chosen for their expertise in employment and labor law in the private sector. Their full biographies appear on the OCWR website at [ocwr.gov](http://ocwr.gov). The Board is responsible for adjudicating disputes under the CAA, promulgating regulations and rules of procedure implementing the CAA's statutory requirements, and recommending to Congress changes to the CAA to advance the rights of employees in the legislative branch.

The Board is the appellate body in the OCWR's ADR process. Its decisions constitute legal precedent for the interpretation and application of workplace rights and accessibility laws in the legislative branch. The Board decides cases on review from merits hearing officers' rulings on employee claims, including claims alleging unlawful employment discrimination and reprisal, among others. The Board also decides cases on review of hearing officers' decisions on complaints filed by the OCWR General Counsel alleging violations of the CAA provisions relating to public services and accommodations under the Americans with Disabilities Act, the occupational safety and health protections of the Occupational

shown by Congress to the Board's 102(b) recommendations well illustrates that the OCWR has become a trusted partner in the legislative branch.

Building and maintaining strong connections with key stakeholders, including staff organizations, employing offices, oversight committees, and advocacy groups, is critical to understanding and serving the needs of the entire community. It is through these trusted relationships that the OCWR is able to effectively promote a fair, safe, and accessible legislative branch. In 2021, the OCWR met regularly with legislative branch leadership to maintain strong, productive communications.

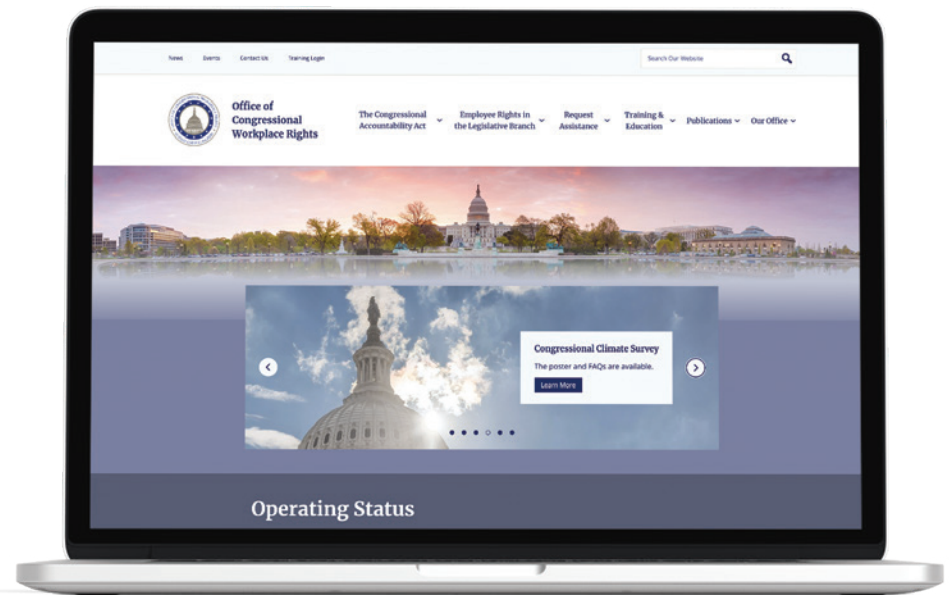
The Reform Act mandates that the OCWR conduct biennial surveys of the congressional workforce to gather information on key aspects of the workplace climate, including staff awareness of their rights under the CAA and attitudes toward sexual harassment. The climate surveys will assist in determining whether the CAA, as amended by the Reform Act, is effectively and efficiently safeguarding the workplace rights of the legislative workforce.

The OCWR website is an essential communication tool for effective stakeholder engagement. Given

high levels of telework in 2021 driven by the COVID-19 pandemic, we strived to make our website even more dynamic, informative, user friendly, and accessible to the congressional community. In 2021, we redesigned our website, making it fully 508 compliant, and highlighted and promoted the utility of the website on social media and in our quarterly e-Newsletters to increase website viewership and use.

### Board of Directors

The OCWR Board of Directors is comprised of five members appointed jointly by the majority and minority leadership of both the





Safety and Health Act, and the unfair labor practice prohibitions in the Federal Service Labor-Management Relations Statute. In addition, the Board issues final decisions on union representation and election petitions, negotiability petitions, and exceptions to arbitrators' awards.

In 2021, the Board reviewed four appellate matters: three petitions for review of decisions of hearing officers, and one matter concerning a request to publish on the OCWR website a hearing officer's decision in a labor-management relations case. The decisions of the OCWR Board of Directors can be found on our website.

The CAA also requires the Board to adopt for congressional approval substantive regulations that implement certain workplace laws under the CAA. In late 2019, Congress enacted the Federal Employee Paid Leave Act (FEPLA). FEPLA amended the Family and Medical Leave Act (FMLA) to allow most civilian federal employees, including eligible employees in the legislative branch, to substitute paid parental leave for unpaid FMLA leave granted in connection with the birth of an employee's child or for the placement of a child with an employee for adoption or foster care. In 2021, the Board adopted final FEPLA regulations and submitted them to Congress for approval. Those regulations remain pending before Congress, and will be formally issued by the Board only upon congressional approval.

In December 2021, the Fair Chance to Compete for Jobs Act (FCA) provisions of the CAA also became effective. The FCA prohibits federal employers, including employing offices in the legislative branch, from requesting most job applicants to disclose information on arrest and

conviction history until a conditional job offer has been extended. The FCA provisions of the CAA direct the OCWR Board of Directors to issue regulations implementing the FCA in the legislative branch that are parallel to those issued by the Office of Personnel Management (OPM) to implement the law in the executive branch. Once OPM promulgates its implementing regulations, the OCWR will adopt FCA regulations for the legislative branch. In the interim, the OCWR has published on its website informational materials, procedures, and FCA claim forms, and the OCWR is ready to process any FCA claims or requests for information that it receives.

### Section 102(b) Recommendations to Congress

The CAA requires ongoing Board review of workplace and accessibility laws. Pursuant to Section 102(b) of the CAA, 2 U.S.C. § 1302(b), the Board reports to each Congress on whether provisions of federal law relating to terms and conditions of employment and access to public services and accommodations should be made applicable to the legislative branch. To ensure that the Board's recommendations are relevant and impactful, the OCWR regularly monitors legislation that may guide the implementation of the CAA and develops thorough and well-reasoned analyses to support the Board's key reform recommendations in its reports to Congress.

The purpose of the Section 102(b) Report is to ensure that the rights afforded by the CAA to legislative branch employees and visitors to Capitol Hill and district and state offices remain equivalent to those in the private sector and the executive branch of the federal government. Section 102(b) of the CAA embodies the ongoing commitment of Congress to apply to itself the same laws that it applies to the private sector and the executive branch of the federal government.

The Board is proud of the impact that its past Section 102(b) Reports and recommendations have had in shaping important congressional reform of the legislative branch workplace, including the Reform Act's implementation of prior recommendations that anti-discrimination, anti-harassment, and anti-retaliation training be mandatory for all Members, offices, and employees, and that workplace protections be extended to unpaid staff. The Board will continue to provide Congress with recommendations for reform of the CAA in future reports. The Board's Section 102(b) Report for the 117th Congress was submitted in December 2020 and is available on the OCWR website at [ocwr.gov](https://ocwr.gov). The Section 102(b) Report for the 118th Congress will be submitted in late 2022.

In 2021, Board Members also provided their legal expertise to the congressional community on labor and employment issues, including testifying before the Committee on House Administration (CHA) on November 9, 2021, on "Oversight of the Office of Congressional Workplace Rights: Lessons Learned from the Congressional Accountability Act of 1995 Reform Act."

#### Performance Measure 1.B

*The OCWR will increase awareness among legislative branch staff of their workplace rights by 30% over five years, as measured by response rates to the Congressional Climate Survey, maintain a regular meeting schedule with legislative branch leadership, and increase OCWR website traffic by 30% over five years. Additionally, the OCWR will develop three strategies to expedite approval of pending regulations, and implement one or more strategy each year until approvals are achieved.*

The OCWR completed the first-ever survey of the workplace climate in the legislative branch in 2021, enabling it to establish a baseline from which to measure future progress.

The OCWR maintained a regular meeting schedule with legislative branch leadership, meeting monthly with staff of the CHA. The OCWR's quarterly meetings with staff of the U.S. Senate Committee on Rules and Administration were limited during the pandemic; the OCWR intends to reestablish its quarterly meetings in 2022.

In 2021, there were 20,920 visits to the OCWR website. This sets the baseline for achieving our goal over the five-year period.

The OCWR implemented three strategies in 2021 to expedite approval of its pending regulations. First, through its 102(b) Report, the OCWR Board made recommendations on the status of regulations that the Board has adopted but Congress has not yet approved. Second, the OCWR regularly advised CHA of the status of such regulations in its monthly reports and during monthly meetings. Third, the OCWR Board raised the issue of its pending regulations in its congressional testimony. In the November 9, 2021 hearing before congressional oversight, Board members discussed recommendations contained in the 102(b) Report for the 117th Congress, highlighted the adopted regulations that it had sent to Congress for approval, and advocated for such approval, in order to allow the regulations to be formally issued and implemented by the Board.

In 2021, the OCWR made progress towards meeting Performance Measure 1.B.

# Occupational Safety and Health, Americans with Disabilities Act, and Administrative Dispute Resolution

## Strategic Plan Goal 2

### Strategic Goal 2— Promote a fair, safe, and accessible congressional workplace through efficient and effective enforcement of statutory rights

The OCWR 2021–2026 Strategic Plan recognizes that effective, efficient enforcement of statutory rights under the CAA is key to achieving a fair, safe, and accessible congressional workplace. In support of this strategic goal, the OCWR has launched initiatives centered on effective enforcement of safety and health and public accessibility standards and of the Office's administrative dispute resolution program. Another initiative seeks to improve our engagement with out-of-area offices, which represent a significant and valued stakeholder community.

We explore these strategic initiatives below.

#### A. Strategic Initiative

*Ensure compliance with applicable safety, health, and accessibility standards and removal of hazards and barriers to access through periodic inspections of facilities; through investigation of issues raised by stakeholders; and appropriate use of mediation, citations, and complaints to resolve issues that remain unresolved.*

The OCWR's team of OSH specialists inspects workplace facilities to ensure a legislative branch free from recognized hazards and inspects and enforces the mandate that public services and accommodations

under Titles II and III of the Americans with Disabilities Act (ADA) remain accessible.

The General Counsel of the OCWR is responsible for matters arising under three sections of the CAA: Section 215 (2 U.S.C. § 1341), which applies the Occupational Safety and Health Act of 1970 (OSHAct); Section 210 (2 U.S.C. § 1331), which applies the public services and accommodations provisions of the Americans with Disabilities Act of 1990 (ADA Titles II and III); and Section 220 (2 U.S.C. § 1351), which applies the unfair labor practices (ULPs) provisions of the Federal Service Labor-Management Relations Statute under Chapter 71 of Title 5, United States Code.

In 2021, the Office of the General Counsel (OGC) began its biennial OSH and ADA inspections for the 117th Congress, completed several OSH and ADA investigations, opened new OSH and ADA investigations based on reported incidents or requests from covered employees and the public, and continued to work with employing offices to abate safety and health hazards and remove barriers to access for persons with disabilities.

#### Safety and Health

CAA Section 215 (2 U.S.C. § 1341) requires compliance with the OSHAct, which mandates that employing offices comply with

occupational safety and health standards and provide employees with workplaces free from recognized hazards that are likely to cause death or serious injury. The OGC conducts required biennial inspections of legislative branch facilities, grounds, and programs for violations of applicable standards and reports its findings to Congress and the Architect of the Capitol (AOC). The OGC also investigates concerns raised by covered employees regarding potential safety and health violations in legislative branch workplaces.

Hazards identified through either the biennial inspection or requestor-initiated investigations must be abated, and the OGC works with the employing offices to monitor and support their abatement efforts. The failure to correct the hazards may result in the issuance of citations and, ultimately, the filing of administrative complaints against the responsible employing office. Complaints are adjudicated by OCWR hearing officers, whose decisions may be appealed to the OCWR Board and then to the U.S. Court of Appeals for the Federal Circuit.

### **Inspections, Investigations, and Education**

The CAA requires that, at least once each Congress, the OGC conduct inspections of all facilities, grounds, and programs within its jurisdiction and report its findings to congressional leadership and the AOC.

In 2021, the OCWR's OSH specialists began their inspections for the 117th Congress. During inspections, the specialists followed CDC protocols and Occupational Safety and Health Administration recommendations to protect themselves and others against the COVID-19 virus, including limiting the size of inspection teams, wearing masks, practicing social distancing, and completing a daily health screening. Despite the

challenges posed by the pandemic, the OSH team completed all of the scheduled inspections, except for one employing office which requested postponement because all of its employees were teleworking.

During 2021, in-person inspections of covered areas included the U.S. Capitol Building and Capitol Visitor Center, the Capitol Power Plant and utility tunnels, the John Adams Building and James Madison Building of the Library of Congress, Senate Members' offices, United States Capitol Police facilities, the House Office Buildings, and the Office of Attending Physician. As in the last several Congresses and consistent with the OCWR's strategic initiative, these inspections focused on identifying and abating higher-risk hazards (i.e., those that pose the greatest risk of injury, illness, and death to legislative branch employees).

The OGC opened 11 new OSH cases in 2021. Four of those arose out of the events at the U.S. Capitol on January 6, 2021; three were related to concerns over workplace protections against the COVID-19 virus; and the rest covered issues including asbestos, fire safety, a vehicular fatality, and a series of concerns in a single workplace including hazard communication, vermin, poor air quality, and safety training deficiencies. Additionally, the OGC continued to work with employing offices to abate hazards identified in cases from previous years, and in 2021, closed two of those cases, one involving potential lead exposures and the other regarding COVID-19 protections.

The OGC issued a special report in July 2021 detailing safety violations by the United States Capitol Police in connection with events at the U.S. Capitol on January 6, 2021, and issued a citation against the United States Capitol Police concerning deficiencies in personal protective equipment and other controls to protect officers during large

demonstrations with the potential for violence. The OGC also closed one citation in 2021 concerning the United States Capitol Police's policies for providing access to employee exposure records.

The OGC also responded to numerous informal requests for information that did not become formal OSH cases, either because they were outside of the OGC's jurisdiction or because the OGC was able to provide technical assistance to resolve the issue. As in 2020, many of the inquiries received in 2021 were from covered employees seeking information or expressing concern regarding COVID-19 protections in the workplace, as well as from employing offices seeking guidance on how best to protect their employees from the virus.

### **Safety Awards**

The OCWR has continued to inspect the offices of Members of Congress and will recognize those offices that were hazard-free through its Safety Recognition Awards program in conjunction with the National Safety Council. Eligibility for these awards depends both on a physical inspection of the Member's Capitol Hill office and completion of a self-inspection by the Member's district or state offices. The OGC also intends to continue its Safety Advocate Award program for individuals who have made substantial contributions to improving safety in legislative branch facilities, and to grant Safety Recognition Awards to those trade shops whose work and storage areas are found to be hazard-free during the biennial inspections.

### **Access to Public Services and Accommodations**

CAA Section 210 (2 U.S.C. § 1331) requires legislative branch employing offices to comply with certain provisions of Titles II and III of the ADA. These provisions mandate that public services and

accommodations, including the facilities and buildings where public services are provided, be accessible to persons with disabilities. The OGC enforces these provisions through two main avenues: (1) biennial inspections and (2) investigations based on Requests for Inspection and Charges of Discrimination that are filed with the OCWR. Enforcement of these provisions supports the OCWR's goal of promoting fully accessible facilities for congressional constituents and visitors.

Barriers to access identified through either the biennial inspection or the requestor-initiated investigation program must be removed; failure to do so may result in the General Counsel filing an administrative complaint against the responsible employing office. Complaints are adjudicated by OCWR hearing officers, whose decisions may be appealed to the OCWR Board and then to the U.S. Court of Appeals for the Federal Circuit.

### **Biennial Inspections**

The OGC inspects areas of public access in legislative branch facilities, grounds, and programs at least once each Congress to identify violations of applicable standards. The OGC reports its findings to Congress and the AOC and notifies any other employing office responsible for remediation. The OGC uses a barrier-removal survey approach to conduct its inspections, which involves: (1) identifying public access violations, known as barriers to access; (2) assessing the severity of each barrier to quantify the need for removal; and (3) evaluating potential solutions to the barriers based upon cost and need. To maximize resources, each biennial inspection focuses on specific facilities or grounds.

In 2021, the OGC began ADA inspections for the 117th Congress, focusing on the O'Neill Federal Office Building and the U.S. Botanic Garden. The remaining ADA

inspections for the 117th Congress will continue through 2022. During 2021, the OGC continued to monitor the removal of barriers identified during its previous ADA inspections.

### **Requests for Inspection and Charges of Discrimination**

The OGC investigates allegations of ADA public access violations raised in Requests for ADA Inspection and Charges of Discrimination.

Requests may be filed by persons who experience or observe barriers to access, including non-employees and members of the public with disabilities. When a Request is filed by a person with a disability, the OGC treats the Request as a Charge of Discrimination. In 2021, the OGC received no new Charges of Discrimination. The OGC received several accessibility inquiries that did not become cases, either because they were outside of the OGC's jurisdiction or not covered by the ADA as applied by the CAA, or because the OGC provided technical assistance to resolve the issue. In 2021, the OCWR closed two investigations from previous years after working collaboratively with the employing offices to address any barriers to access that were found. One investigation closed in 2021 involved doorway threshold height in a House Office Building bathroom, and the other was an alleged denial of reasonable accommodation in the provision of constituent services by a House committee.

### **Facilitating ADA Compliance**

In keeping with the OCWR's mission of educating the legislative branch community on its rights and responsibilities under the CAA, in 2021 the OGC used educational materials, training, and technical consults to help employing offices understand how to comply with the ADA public access provisions.

The OGC has found that showing offices how to identify and

address potential barriers before issues arise is an effective way to increase accessibility in the legislative branch. The OCWR website features a video and written materials on office space accessibility. These materials are geared toward staff who interact with the public in office settings. These resources provide quick, easy-to-understand tips on how to identify and eliminate common barriers to access in meeting and office spaces, making them more accessible to visitors with disabilities. In 2021, the OGC updated the written materials, as well as web pages on the OCWR website concerning ADA public access, to ensure that this information is presented in a clear and useful manner.

The OGC highlighted accessibility issues in legislative branch facilities when it testified before the Select Committee on the Modernization of Congress at a May 27, 2021 hearing entitled "Making the House More Accessible to the Disability Community." Following this, the OGC participated in a Select Committee on Modernization staff Brown Bag Lunch session entitled "Increasing Accessibility, Discussing Common Barriers, Solutions, and OCWR Resources."

The OGC incorporated ADA outreach into larger OCWR feature events, such as the quarterly Union Forum for legislative branch labor representatives, where the OGC educated labor partners on the ADA public access inspection program. The OGC also incorporated ADA public access and reasonable accommodation training into its Brown Bag Lunch series, which aims to educate legal counsel from the legislative branch on various statutes covered by the CAA to facilitate the employing offices' compliance with applicable laws. One Brown Bag Lunch focused on how the ADA is implicated in returning to the workplace during the COVID-19 pandemic.



The OGC continued to provide technical assistance to employing offices as they developed their own solutions to improve accessibility, including consultation with AOC regarding mobility device accessibility solutions in a planned renovation to a committee hearing room in a House Office Building.

### Performance Measure 2.A

*(1) A time schedule for inspections is developed and distributed for each calendar year and 95% of inspections are completed within the established time schedule.*

*(2) Issues raised by stakeholders through inspection and investigation requests will be promptly investigated and 90% of these issues will be resolved within one year of the opening of the inspection or investigation through abatement, development of abatement plans, mediation, or commencement of enforcement actions.*

In 2021, OCWR established a schedule for inspections. Of the 16 inspections scheduled, five needed to be rescheduled to accommodate employing office requests. Notwithstanding the rescheduling, 100% of inspections were completed on time. The OCWR also received 8 Requests for OSH Inspections in calendar year 2021. Of those, one was still being investigated, and the other 7 were resolved: 6 were fully investigated and closed, and one became Citation 69, related to concerns about USCP officer safety in connection with the events of January 6. The cases that have been closed took between 1.5 months and 8 months to fully resolve, with an average of about 5 months from

receipt of the request until closure of the case. The case still under investigation at the end of 2021 was within a year of the initial request. In 2021, OCWR met Performance Measure 2.A.

### B. Strategic Initiative

*Provide an efficient and effective administrative dispute resolution program*

The OCWR administers the administrative dispute resolution (ADR) process to resolve claims alleging violations of employee rights under the CAA. Under its Strategic Plan and consistent with the goals of the Reform Act, the Office is seeking to improve the efficiency and effectiveness of the ADR process to better meet the needs of the legislative workforce in resolving workplace disputes.

### Strategic Action Item

*Ensure that the ADR program complies with all statutory and regulatory requirements, such as confidentiality and processing timeframes.*

The OCWR ADR program is administered in compliance with statutory mandates that ensure the timely and effective consideration of workplace disputes that come before the Office. The ADR procedures implemented under the Reform Act, including certain mandates for confidentiality, are described below.

### Confidential Advising

Employees covered by the CAA may contact the OCWR before filing a claim to seek information and advice about their rights and the procedures under the CAA. The OCWR offers

privileged and confidential advising services to covered employees. The confidential advisor is an independent, experienced employment law attorney who advises covered employees on their rights and responsibilities under the CAA and the procedural options available to them to resolve their workplace disputes.

The OCWR's confidential advisor is not the employee's attorney or advocate. Covered employees may designate an attorney or a non-attorney to represent them in the ADR process.<sup>2</sup>

### Filing a Claim

Regardless of whether an employee wishes to continue with proceedings through the OCWR's ADR process or file a civil action in federal court, the employee must first file a claim with the OCWR. Employees may use the OCWR's secure online filing system available at [ocwr.gov](https://ocwr.gov), or use other methods such as mail, e-mail, facsimile, and hand-delivery to submit a downloadable claim form. A claim alleging a violation of the CAA must be filed within 180 days of the date of the incident that gave rise to the claim.

After the OCWR receives a claim, it provides the claimant with information about the CAA and transmits a copy of the claim to the employing office and the employing office's representative. There are additional notification requirements for claims filed that allege misconduct personally committed by current or former Members of Congress.

### Preliminary Review

Each claim undergoes a preliminary review by an independent preliminary hearing officer to determine whether the claimant

<sup>2</sup> Employees of the U.S. House of Representatives also may contact the Office of Employee Advocacy to request free representation. If an employee is represented by an attorney, the confidential advisor may only provide limited services, such as providing the employee's designated attorney with general assistance and information.

is a covered employee who has stated a claim for which, if the allegations contained in the claim are true, relief may be granted under the CAA. The preliminary hearing officer then must issue a preliminary review report. If the preliminary hearing officer determines that the claimant is not a covered employee who has stated a claim for which relief may be granted under the CAA, the claimant is notified that an administrative hearing at the OCWR is not an available option, and the only way to pursue the case is to file a civil action in federal district court. If an employee files a civil action in district court before the preliminary hearing officer concludes his or her review, the OCWR administrative processing is terminated.

If the preliminary hearing officer determines that the claimant is a covered employee who has stated a claim for which relief may be granted under the CAA, the claimant may request an administrative hearing with the OCWR or file a civil action.

A preliminary hearing officer must transmit to the relevant Ethics Committee any report on the preliminary review of a claim alleging that a Member or Senator personally: (1) harassed a covered employee in violation of Sections 201 or 206 of the CAA; or (2) retaliated against an employee because the employee made a claim of harassment.

### **Mediation**

Mediation is a confidential process that enables parties to resolve a claim through dialogue and agreement, rather than litigation. OCWR mediation is voluntary, may be requested by either the claimant or the employing office, and may proceed only if the non-requesting party also agrees. Additionally, if requested by either party, the

parties must be separated during the mediation session.

### **Administrative Hearing**

A claimant may proceed to an administrative hearing with the OCWR only if the preliminary hearing officer conducting the preliminary review determines that a valid claim has been stated and the claimant timely submits a request for an administrative hearing. Once a hearing has been requested, an independent merits hearing officer is assigned to conduct the hearing.

### **Appeals**

After an administrative hearing is conducted, the merits hearing officer will issue a decision. A party dissatisfied with the merits hearing officer's decision may file a petition for review with the OCWR's Board. After its appellate review, the Board will issue a written decision, along with its reasoning for the decision. A decision of the Board may be appealed to the U.S. Court of Appeals for the Federal Circuit for further review.

### **District Court Filing**

After an employee has filed a timely claim with the OCWR, the employee may file a civil action in federal district court rather than utilizing the OCWR's ADR procedures. However, an employee who has requested an administrative hearing with the OCWR may not also file a civil action.

If an employee files a civil action during preliminary review, the OCWR's review of the claim will terminate. An employee also may wait until the preliminary hearing officer concludes the preliminary review before deciding whether to file in district court. If the preliminary hearing officer in the report determines that the employee has not stated a claim for which relief may be granted, the report provides notice that the employee has a right to file a civil action.

### **Awards, Penalties, and Attorneys' Fees**

Depending on the law and the facts in the case, the merits hearing officer, the OCWR Board, or a federal court may order monetary awards and other appropriate remedies, such as reinstatement, promotion, or back pay. Attorneys' fees, expert witness fees, and certain other costs also may be awarded. No civil penalties or punitive damages may be awarded for any claims under the CAA.

# Administrative Dispute Resolution Statistics for Claims Pending or Processed from January 1, 2021–December 31, 2021

## STATISTICS FOR CLAIMS PROCESSED

### Pre-Reform Act (Claims filed before June 19, 2019)

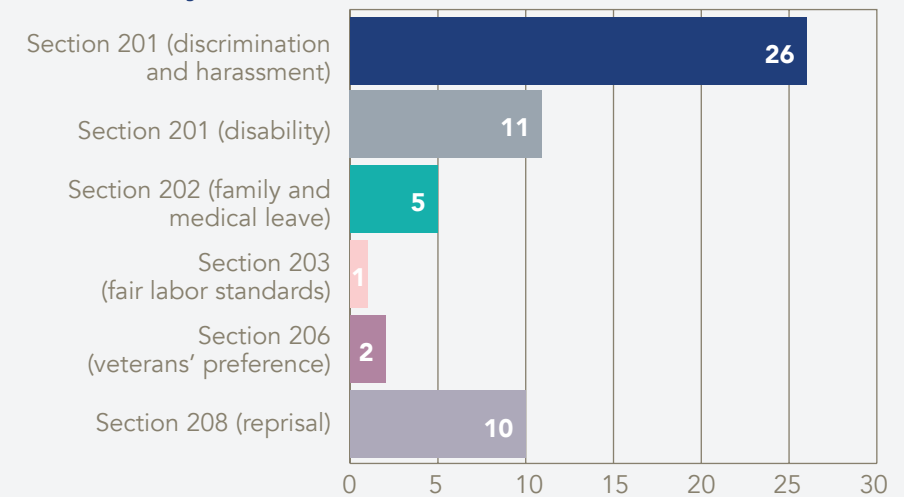
Three claims filed under the CAA prior to the implementation of the CAA Reform Act were pending in the administrative dispute resolution (ADR) program at the outset of 2021. One claim was pending in the administrative hearing process at the beginning of 2021; two claims were withdrawn or settled in 2021.<sup>3</sup>

### Post-Reform Act (Claims filed January 1, 2021–December 31, 2021)

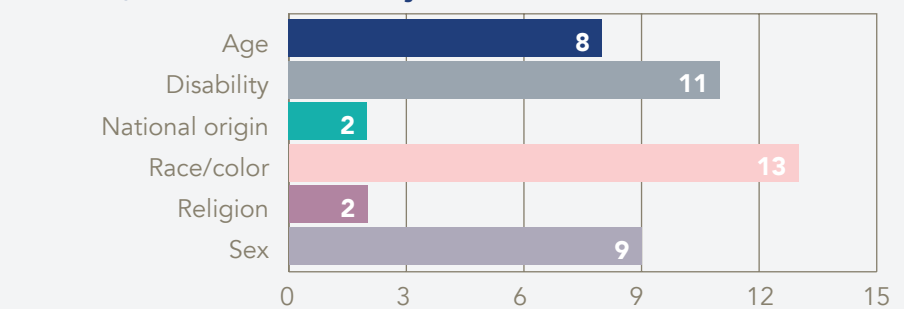
#### Activity for Claims Filed

Claim Activity in 2021	
Claims pending from 2020	4
Claims filed in 2021	23
<b>Total active cases—2021</b>	<b>27</b>
Preliminary review	20
Reports of preliminary review issued	14
Claims passed preliminary review	13
Mediations requested	10
Mediations agreed to	8
Hearings requested	9
Pending before a merits hearing officer	3
Claim Disposition in 2021	
Claims filed in district court	3
Claims failed preliminary review	1
Claims closed when claimants failed to request an administrative hearing	4
Claims withdrawn during preliminary review	1
Claims withdrawn during hearing phase	3
Claims dismissed by hearing officer	3
Claims settled	5
Claims open at the end of 2021	7
Board Activity in 2021	
Claims appealed to the Board of Directors	1
Decisions issued by the Board of Directors	3

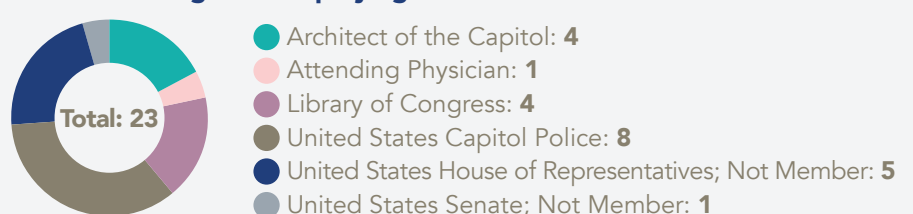
#### Claims Filed by Section of the CAA—2021<sup>4</sup>



#### 2 U.S.C. § 1311 Claims Listed by Protected Class



#### Claims Filed Against Employing Offices

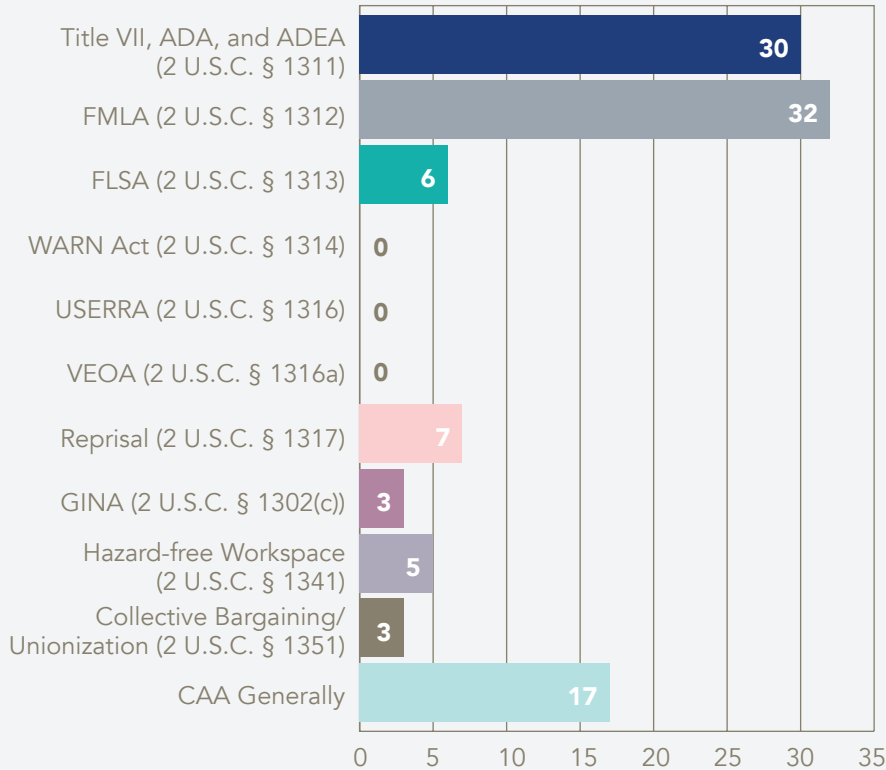


<sup>3</sup> The two claims settled in 2021 noted in this number were filed in district court based on pre-Reform Act claims filed before the OCWR. Settlements were reached in district court and finalized before the OCWR in 2021.

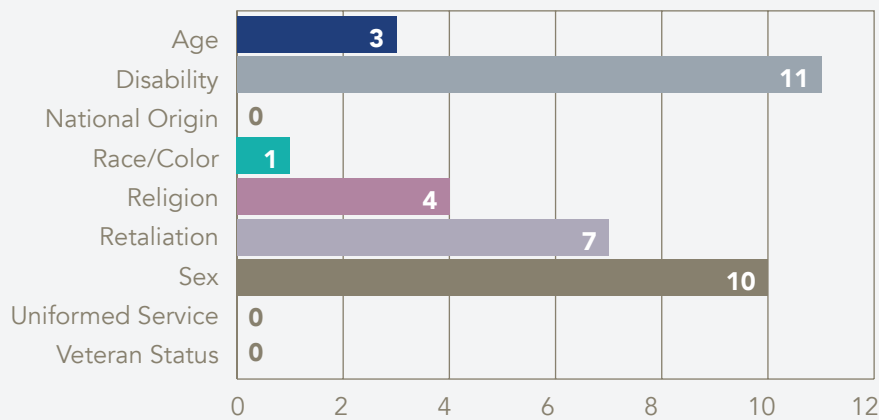
<sup>4</sup> A single claim may allege a violation of more than one section of the CAA.

## REQUESTS FOR INFORMATION: 94

### General Information Requests from Covered Employees by Section of the CAA



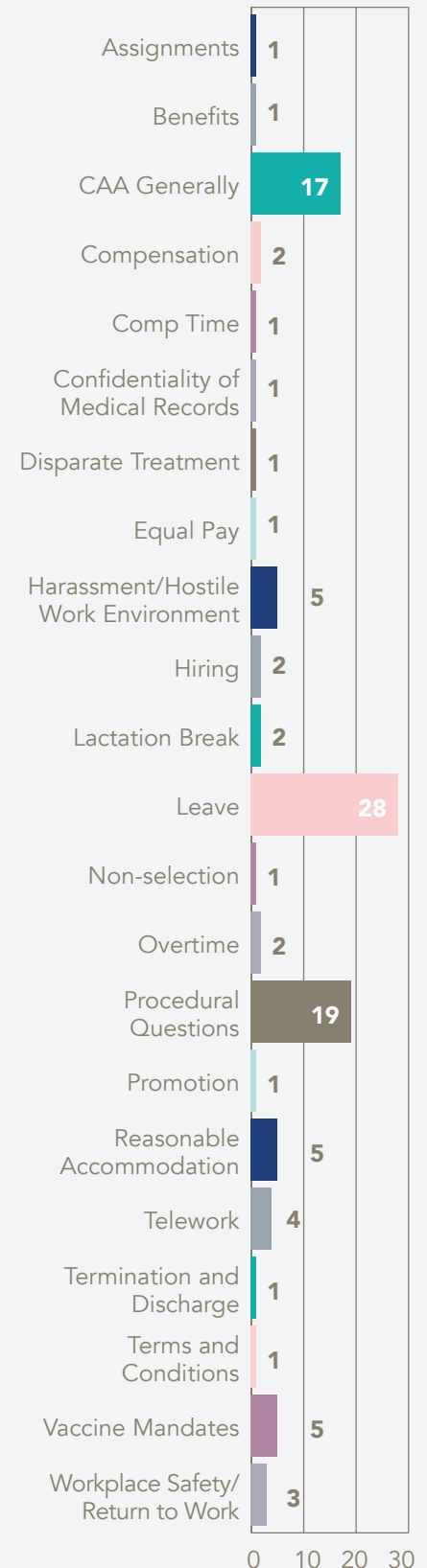
### Information Requests by Covered Employees Regarding Discrimination and Retaliation



### Information Requests by Employing Office

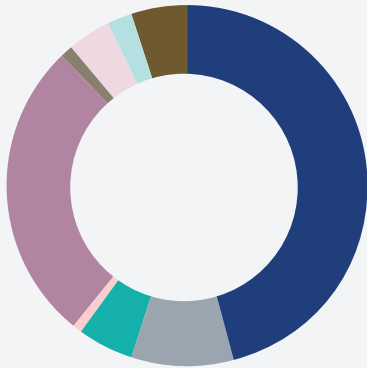


### General Information Requests from Covered Employees by Workplace Issue



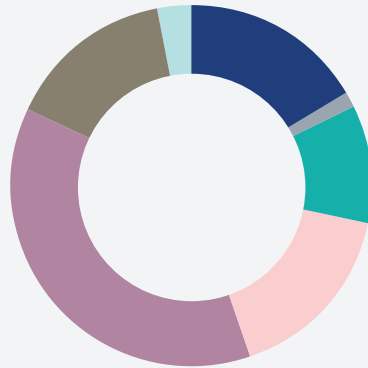
# REQUESTS FOR CONFIDENTIAL ADVISING: 67

## Advice



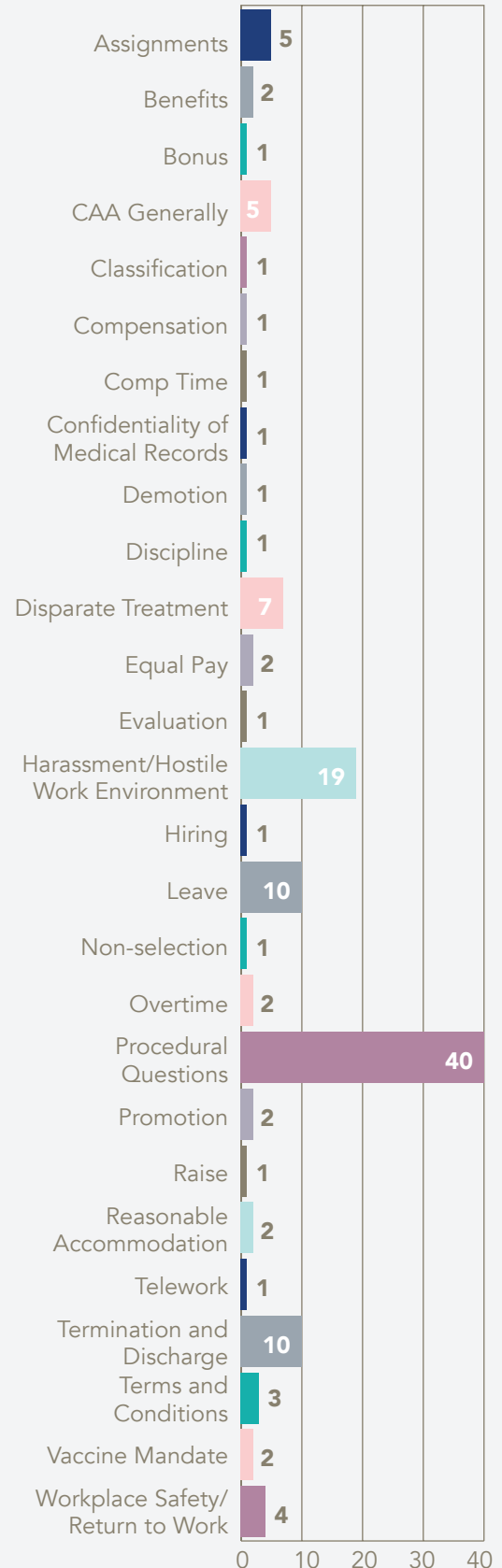
- Title VII, ADA, and ADEA (2 U.S.C. § 1311): **46**
- FMLA (2 U.S.C. § 1312): **9**
- FLSA (2 U.S.C. § 1313): **5**
- WARN Act (2 U.S.C. § 1314): **0**
- USERRA (2 U.S.C. § 1316): **0**
- VEOA (2 U.S.C. § 1316a): **1**
- Reprisal (2 U.S.C. § 1317): **27**
- GINA (2 U.S.C. § 1302(c)): **1**
- Hazard-free Workspace (2 U.S.C. § 1341): **4**
- Collective Bargaining/ Unionization (2 U.S.C. § 1351): **2**
- CAA Generally: **5**

## Employing Office

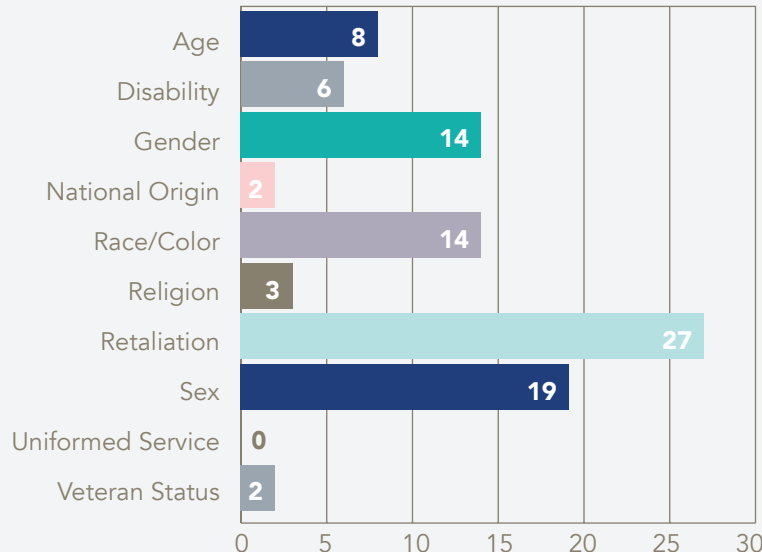


- Architect of the Capitol: **11**
- Congressional Budget Office: **1**
- Library of Congress: **7**
- United States Capitol Police: **11**
- United States House of Representatives: **25**
- United States Senate: **10**
- Employing Office Not Covered: **2**

## Workplace Issues Involved



## Discrimination and Retaliation



## Performance Measure 2.B

The OCWR ADR program will maintain adherence to all statutory and regulatory requirements while semi-annually reporting on the effectiveness of procedures and making any adjustments that become apparent in a timely manner.

The CAA mandates that the OCWR make regular assessments of the effectiveness of the claims process, including the timely resolution of claims, and submit semi-annual reports on its assessments to its oversight committees. In compliance with these statutory and regulatory requirements, in 2021, the OCWR reviewed all ADR activities to assess the effectiveness of the procedures under the CAA Reform Act, and timely reported on the effectiveness of the claims process. In 2021, OCWR successfully met Performance Measure 2.B.

## C. Strategic Initiative

Develop an outreach strategy and program geared towards the out-of-area offices

The OCWR administers workplace protections for legislative branch employees working in the D.C. area as well as in state, district, and field offices throughout the country. Despite the remote work environment, the OCWR continued to educate the legislative branch community on safety and health topics that frequently affect covered employees. In 2021, the OCWR launched the Ergonomic Outreach Program, which includes comprehensive guidance on creating ergonomically sound workspaces and offers employees and employing offices the opportunity to request individualized assessments by OCWR OSH specialists.

We continued our outreach to Members' district and state offices through the use of the online safety self-certification process. Our Office provided guidance and information on safety and health matters through new and updated "Fast Facts" and routine communication with stakeholders on best practices for preventing the spread of infectious diseases in the workplace.

The OCWR shared helpful information with legislative branch staff working in offices around the country. Our Office distributed the OCWR's quarterly e-Newsletter to staff using their .gov e-mail

addresses. Our trainers presented at four District and State Staff Institute (DSSI) events to inform out-of-area staff of their rights under the CAA, and resumed the pop-up training modules via Zoom for Government to educate employees on the provisions of the CAA.

In 2021, the OCWR also updated and distributed to employing offices the congressional workplace rights posters mandated by the CAA. Seven Constant Contact campaigns were launched in 2021 that featured e-Newsletters, reports, and relevant program information. The Office continued to grow its outreach in 2021 through social media with thousands of followers on Twitter, Facebook, Instagram, and LinkedIn.

The OCWR's website, newly redesigned in 2021 and fully compliant with the accessibility requirements for information and communication technology covered by Section 508 of the Rehabilitation Act, provides easy navigation, improved information layout, and important training resources for the congressional community.

## Performance Measure 2.C

OCWR contacts with out-of-area offices increase 25% in the five-year period. Virtual inspections of out-of-area offices increase 25% in the five-year period.

In 2021, the OCWR had many contacts with out-of-area offices seeking assistance. OCWR is devising a mechanism to determine and track the number of out-of-area contacts moving forward. In 2021, the OCWR received 153 self-certifications of self-inspections of out-of-area offices. This data will allow us to set a baseline for achieving our goal in the five-year period. In 2021, OCWR began the process to achieve Performance Measure 2.C.

**Office Ergonomic Guidance**

The Office of Congressional Workplace Rights (OCWR) is committed to minimizing musculoskeletal disorders (MSDs) throughout the legislative branch. The guidelines below include the basic elements for establishing an ergonomically sound office environment. Some employing offices may already have ergonomic programs, and this guidance is not intended to replace those programs, but it may offer supplemental information.

- MONITOR**
  - Eye level is approximately 2 to 3 inches below the top of the monitor
  - Monitor is approximately an arm's length away
  - Eyes are looking slightly downward without bending the neck
  - Monitor is centered in relation to the body's position
- MONITOR GAZE**
  - Adjust monitor to obtain a 30-35 degree tilt to reduce glare
  - Adjust lighting to reduce glare
  - Adjust monitor display setting
  - Clean monitor screen
- CHAIR HEIGHT & ADJUSTMENTS**
  - Chair slightly reclined at 100 to 120 degrees with lumbar support
  - Feet are flat on the floor
  - Hips and knees are at 90 degrees
  - Thighs are parallel to the floor
  - Elbows are at sides and bent at 90 degrees or more
  - Footrests are horizontal
  - Adjust armrests to allow height
  - Write area is in neutral (straight) position, in line with forearms
  - Adjust chair so pressure is not placed behind the knees
  - Feet are flat on the floor or resting on a footrest
- INPUT DEVICES, KEYBOARD & MOUSE**
  - Keyboard should be directly in front of you
  - The G and H buttons on the keyboard are aligned with your arm
  - Keyboard is in flat position
  - Mouse adjusted to keyboard
  - Keyboard and mouse on the same working level
  - Use external keyboard and mouse with laptop
- STANDING DESK HEIGHT**
  - Adjust desk so elbows are at 90 degrees or more
  - Adjust desk so forearms are horizontal
  - Adjustment so wrists are in a neutral (straight) position, in line with forearms
  - Consider standing on an anti-fatigue cushion mat

Contact OCWR at [OCWR@ocwr.gov](mailto:OCWR@ocwr.gov) if you have any questions or need the additional information.

**OTHER ERGONOMIC ELEMENTS**

**BISEY POSITIONING**

- Head and neck are upright and over shoulders
- Shoulders are relaxed, not raised or tense
- Ears, shoulders, elbows, and hips are aligned

**OFFICE ITEMS**

- Document holder should be adjacent to and at the same height as monitor
- Telephone and other frequently used equipment are easily accessible
- Headset or headphones are used for extended phone use

**LIGHTING**

- Ensure adequate lighting in the workspace
- Consider a task light on an adjustable arm rather than a table lamp

**SCHEDULE BREAKS**

- Stand up from desk and walk around for a few minutes
- Do "at the desk body stretches"
- Look away from the monitor and focus on something at a different distance

**ERGONOMICALLY DESIGNED OFFICE SPACES PROMOTE MANY ADVANTAGES FOR BOTH EMPLOYEES AND EMPLOYERS, INCLUDING:**

- Increasing employee focus, attention, and engagement
- Enhancing productivity and work quality
- Improving employee morale, mood, and energy level
- Reducing employee stress
- Lowering the risk of developing musculoskeletal disorders
- Minimizing business costs associated with employee injuries and absenteeism

**HERE ARE SEVERAL BASIC STRETCHES THAT CAN BE COMPLETED AT YOUR WORKSTATION.\***

**CABLE STRETCH**  
While sitting with feet on the floor, stretch the shoulders, neck, and head forward. Hold for 30 seconds. Repeat 3 times on each side.

**NECK STRETCH**  
Tilt head to one side (one toward shoulder). Hold for 30 seconds. Repeat 3 times on each side.

**DIAGONAL NECK STRETCH**  
Tilt head slightly and then look down as if looking at your pocket. Hold for 30 seconds. Repeat 3 times on each side.

**SHOULDER STRETCH**  
Slowly bring shoulder up to the ears and hold for approximately 30 seconds. Rotate shoulder back and down. Repeat 3 times.

**WRIST STRETCH**  
Hold arm straight out in front of you. Pull the hand backward, with the other hand, knee and elbow. Hold for 20 seconds. Repeat 3 times each.

\*Exercises are recommended for healthy adults and should not be done by pregnant women or those with pre-existing conditions. Exercises and stretches are based on an individual's abilities and limitations. It is recommended that you consult with a physician before starting a new exercise regimen.

Contact OCWR at [OCWR@ocwr.gov](mailto:OCWR@ocwr.gov) if you have any questions or need the additional information.

# Labor-Management Relations

## Strategic Plan Goal 3

### Strategic Goal 3— Foster productive collective bargaining relations in the legislative branch

The OCWR Strategic Plan recognizes the importance of supporting productive collective bargaining relationships throughout the legislative branch. The Plan launches three strategic initiatives in support of this goal, including the effective use of statutory procedures to resolve labor-management disputes, and the enhancement of bargaining relationships through education and effective agency decision-making.

#### A. Strategic Initiative

*Promote resolution of outstanding issues by thoroughly investigating petitions and charges, by promoting mediation and settlement at all stages of proceedings through actively engaging the parties in discussions, and by selectively using the ADR process when necessary to resolve disputes that the parties are unable to resolve themselves*

Section 220 of the CAA (2 U.S.C. § 1351) applies the Federal Service Labor-Management Relations Statute (FSLMRS) to certain employees and employing offices of the legislative branch, and prohibits unfair labor practices (ULPs) by both employing offices and labor organizations. The CAA protects the rights of certain employees

to form, join, or assist a labor organization without fear of penalty or reprisal, and protects those who choose not to join or participate in a labor organization.

The OCWR is responsible for conducting representation proceedings in the legislative branch, and for certifying the results of the elections. The OGC is responsible for protecting the labor-management relations rights of covered employees and employing offices through the investigation of ULP charges, facilitation of mutually agreeable resolutions between the parties, and prosecution of ULP complaints if settlements cannot be reached. The OCWR has certified more than 20 union-represented bargaining units composed of a wide variety of employees, including police officers, masons, carpenters, electricians, plumbers, freight and material handlers, visitor guides and visitor assistants, power plant laborers, photographers and videographers, and clerical and administrative workers.

#### Investigation and Prosecution of ULPs

Section 220 of the CAA (2 U.S.C. § 1351) applies to the legislative branch the ULPs provisions of the FSLMRS. All ULP complaints filed by the General Counsel are adjudicated by an OCWR hearing



officer and may be appealed to the OCWR Board of Directors. A decision by the Board may be appealed to the U.S. Court of Appeals for the Federal Circuit. The OCWR Board is represented by the General Counsel before the Federal Circuit.

In 2021, two ULP charges were filed with the OCWR and investigated by the OGC. The allegations in those charges included failure to bargain and retaliation for protected activity. Both cases were closed by the OGC in 2021.

In April 2021, the OGC filed a brief in support of its 2020 ULP complaint with the OCWR Board regarding the United States Capitol Police's suspension of its entire collective bargaining agreement with the Fraternal Order of Police and unilateral change in working conditions during the COVID-19 pandemic.

#### ULP Charges Filed in 2021:

Failure to collectively bargain	1
Retaliation for engaging in protected union activity	1

#### Performance Measure 3.A

*All issues raised by petitions and charges will be promptly investigated and 90% of these issues will be resolved through mediation, settlement, the commencement of enforcement actions, or a decision on the merits within one year of the filing of the petition or charge.*

In 2021, the two ULP charges filed with the OCWR were resolved within one year of filing. During this same time period, no representation petitions were filed with the OCWR. Therefore, the OCWR was successful in meeting Performance Measure 3.A in 2021.



## **B. Strategic Initiative**

*Enhance collective bargaining relationships by developing and presenting educational programs specifically targeted to management and labor representatives to ensure that all parties have a thorough understanding of their legal duties and contractual obligations and the best practices for good management-labor relationships*

Consistent with the goals of its Strategic Plan, the OCWR continued to enhance its education and outreach efforts utilizing online publications and training sessions to connect with and inform its stakeholders. In 2021, the Office sponsored Union Forums bringing together representatives from legislative branch labor organizations for a review of important issues. The OCWR also maintained its Brown Bag Lunch series to inform legislative branch legal counsel on relevant topics and facilitate compliance with applicable laws.

In 2021, the OGC organized three Union Forums, bringing together representatives from numerous legislative branch labor organizations and employing offices for training. The Forums were entitled “An Overview of the Unfair Labor Process” (March 2021), “Bargaining the Return to the post-COVID Workplace” (June 2021), and “Important Federal Sector Labor Cases From 2020–Present” (October 2021). In addition, the OGC organized two virtual Brown Bag Lunches for management attorneys from legislative branch employing offices. Subject titles were “Returning to the Workplace: Potential Legal Issues” (May 2021) and “Recent Cases Deciding Potential CAA Issues” (September 2021). We presented all OCWR

Union Forums and Brown Bag Lunches virtually due to the ongoing pandemic; all sessions were very well attended, far exceeding the performance measure. In 2021, the OCWR successfully met Performance Measure 3.B.

### **Performance Measure 3.B**

*During each calendar year, OCWR will present at least three educational programs specifically targeted to management and labor representatives that are designed to enhance understanding of collective bargaining duties and best practices. Each program will be attended by at least three labor representatives and three management representatives.*

## **C. Strategic Initiative**

*Ensure that all briefs and decisions issued by the Office accurately address the issues raised by the parties and foster productive collective bargaining relations*

The Board is the OCWR's appellate body, and its decisions constitute legal precedent for the interpretation and application of the FSLMRS provisions of the CAA in the legislative branch. The Board decides cases on review from merits hearing officers' rulings on employee claims and decides cases on review of hearing officers' decisions on complaints filed by the OCWR General Counsel alleging violations of the provisions relating to the ULP prohibitions under the FSLMRS, as applied by the CAA. In addition, the Board issues final decisions on union representation and election petitions, negotiability petitions, and exceptions to arbitrators' awards.

### **Performance Measure 3.C**

*Standard Operating Procedures are established within a year to systemize the process of developing briefs and decisions, whereby the OCWR will specifically consider how the issues raised by the parties can be addressed in a manner that provides for productive collective bargaining relations. These Standard Operating Procedures are followed for every brief and decision prepared by the Office.*

The OCWR developed and utilizes standards and procedures to ensure that all briefs and decisions are grammatically correct, drafted using concise and clear language, and are legally sound. The OCWR is also developing a Style Guide to standardize the preparations of its official documents. The OCWR met Performance Measure 3.C.

# Administrative and Personnel

## Strategic Plan Goal 4

### Strategic Goal 4— Optimize OCWR performance by developing and maintaining a highly motivated, talented, and satisfied workforce

In its 2021–2026 Strategic Plan, the OCWR acknowledged that its staff is its most valued asset, and that through its staff it is able to provide the high level of services that the legislative branch deserves and has come to expect. This goal outlines three critical initiatives to ensure that the Office maintains a qualified and productive workforce necessary to effectively implement the many important provisions of the CAA.

#### A. Strategic Initiative

*Improve the remote working and in-office experience*

In 2021, while most offices continued to operate remotely, the OCWR ensured that its staff had the necessary tools to continue to effectively perform their duties. In addition to providing electronic resources, the Office addressed workplace health and resiliency. Utilizing web-conferencing platforms, the OCWR hosted numerous team building events to keep its staff connected. The Office launched a guest speaker series, inviting prominent speakers to address staff on important issues such as racial equity and gender norms. In March 2021, the OCWR also hosted a telework 101 session for its staff and three workplace resiliency seminars. In addition, the OCWR's own trainers and OSH

inspectors conducted educational sessions, providing valuable information to all OCWR staff.

#### Performance Measure 4.A

*OCWR will reach high morale such that at least 80% of employees who leave OCWR in the five-year period will do so for reasons outside of OCWR control.*

The OCWR recognizes that its most valued resource is its uniquely knowledgeable staff. In order to provide the high level of services that the legislative branch has come to expect from the OCWR, it must maintain an engaged and motivated workforce.

In 2021, five employees left the OCWR. Of those, 80% departed for reasons outside of the OCWR's control. In 2021, the OCWR met Performance Measure 4.A.

#### B. Strategic Initiative

*Encourage development of professional skills*

Throughout the pandemic, the OCWR prioritized ongoing professional development for its staff. All training opportunities were determined by individual development plans that were established by the employee with the approval of their supervisor. All

development plans align with the OCWR's strategic goals and further the mission of the OCWR. We offered individual coaching opportunities to staff to enhance their performance, as needed.

#### **Performance Measure 4.B**

*OCWR employees accomplish at least 70% of the goals laid out in their five-year individual development plans over the five-year period.*

In 2021, the OCWR created individual development plans, setting a baseline for achieving this goal over the five-year period. In 2021, OCWR set a baseline for Performance Measure 4.B.

#### **C. Strategic Initiative**

*Source and onboard high-quality candidates for open positions*

Understanding its broad mandate and unique work environment, the OCWR focused on recruiting and retaining staff with proven expertise in their subject area. During 2021, the OCWR on-boarded several staff with significant experience and proven track records in their respective areas.

#### **Performance Measure 4.C**

*OCWR will fill 80% of open positions within 90 days over the five-year period. OCWR will give exit interviews to at least 90% of departing staff over the five-year period.*

In 2021, five employees left OCWR, and these five open positions were filled. Two positions were filled within 90 days of the posting. Four staff members participated in their exit interview. In 2021, the OCWR made progress towards Performance Measure 4.C.



# Information Technology

## Strategic Plan Goal 5

### Strategic Goal 5— Maximize use of evolving technologies and social media to advance OCWR goals and maintain security

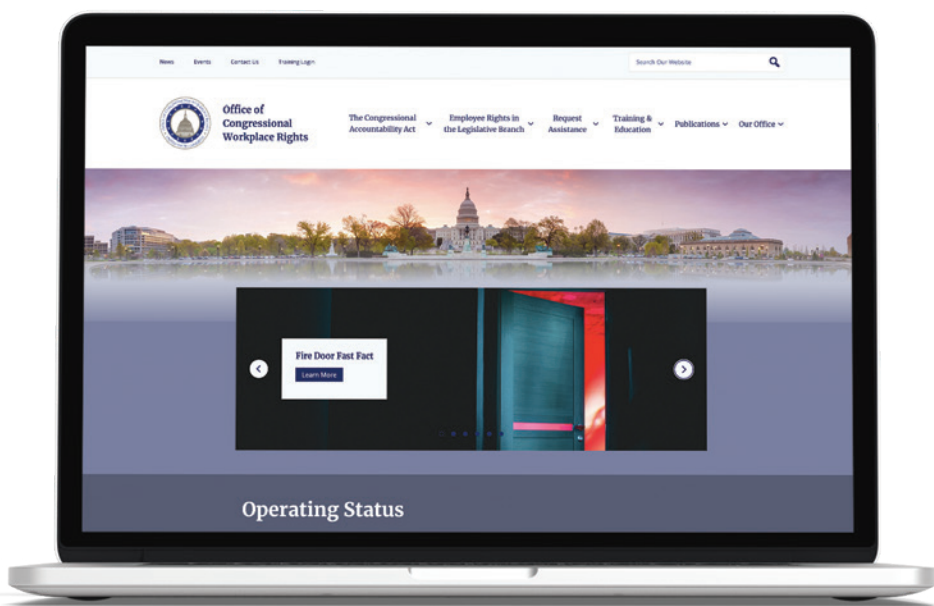
The final goal in the 2021–2026 Strategic Plan centers on the effective use of technology to further OCWR’s mission and mandate. Our Office has undertaken critical initiatives to use emerging technology: to achieve our program goals; to safeguard and maintain confidential agency records; to ensure IT modernization and security; and to develop and maintain an information technology (IT) governance, risk management, and information security compliance program. We explore each of these technology-centered initiatives below.

#### A. Strategic Initiative

*Identify, explore, and implement technology to further OCWR program goals*

In 2021, the Office effectively prioritized and adapted its communications and outreach strategy. While COVID-19 protocols limited in-person gatherings and restricted production schedules, the Office focused on enhancing its presence online, in print, and on social media to ensure that important materials—such as mandated reports, regulations, and Board decisions—were timely submitted and readily available to the covered community.

Due to an increased demand for online tools, in October 2021 the OCWR hired a web and communications specialist to assist in the design and management of its website. In December 2021, the OCWR launched a new website. The new site was developed with maximum accessibility in mind and was certified compliant with Section 508 standards. It was provided a Level AA classification under the Web Content Accessibility Guidelines, meaning the website exceeds minimum federal requirements for web accessibility. The website was vetted based on factors such as user-controlled closed captioning,



compatibility with screen readers, and the inclusion of “alt text” labels for images. The OCWR’s website enables its staff to more easily update content that is 508 compliant, thereby keeping important information current and accessible to the covered community.

The website redesign included new color palettes, font styles, and template designs to energize information dissemination and engage readership. The OCWR’s Fast Facts, e-Newsletters, educational brochures, posters, and OSH resources are all screen-reader compatible and printer-ready.

In addition to substantive content, the new website provides a complete resource list and contact information to easily connect with OCWR specialists. Website posts are organized with tag and category labels, which group like-topic items such as Fast Facts and the OCWR Ergonomic Outreach Program, and inspire the user to learn more and dig deeper into the website’s online content. Many of our web pages now also include breakout menus along the margins that provide additional resources related to the workplace protections the user is exploring.

In 2021, the OCWR maintained its presence on several social media platforms, including Twitter, Instagram, LinkedIn, and Facebook. The OCWR posts content designed to promote awareness of, and compliance with, the provisions of the CAA.

#### Performance Measure 5.A

*OCWR will incorporate technology in at least three new ways in order to advance the programmatic goals of the Office during the five-year period.*

In 2021, the OCWR developed and launched a new website that

incorporated new technology. The site enables the OCWR to make regular updates in-house, increasing efficiency and cutting costs. In 2021, the OCWR made significant progress on Performance Measure 5.A.

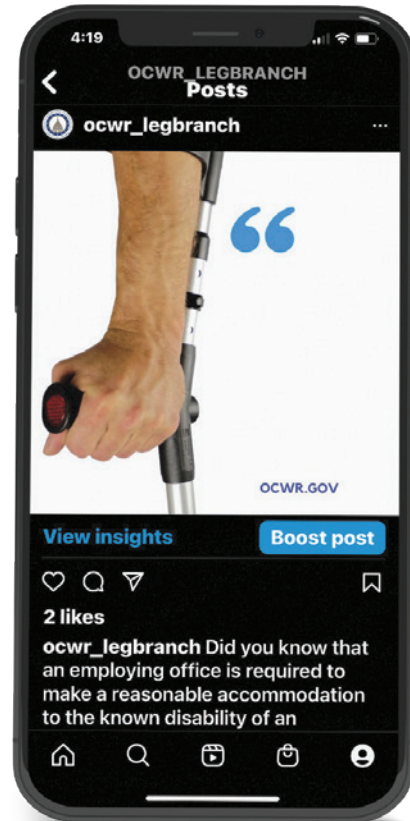
#### B. Strategic Initiative

*Maintain confidentiality and security of physical and electronic files and documents*

#### Performance Measure 5.B

*OCWR will utilize a secure information management product and associated tools to create information repositories to match categories identified by OCWR staff. OCWR will implement user access auditing, access monitoring, and reporting of records accessed using the information management product.*

The OCWR Permanent Records Retention (PRR) Policy provides that all OCWR records are categorized as permanent under the CAA and warrant preservation. In this regard, the OCWR has established and operates a secure online claims reporting and tracking e-filing system for all ADR files, including confidential records, which includes a secure file transfer tool that enables parties to file and receive encrypted records and that employs two-factor authentication access controls. Claim data and any ADR records are transferred to a secure folder in the Strategic Information System Plan automatically via an Application Programming Interface. The system is also designed to serve as a secure platform for the permanent retention of all such electronic records, and non-electronic records are transferred and permanently retained in keeping with the PRR Policy requirements.



In 2021, the OCWR began exploring options for implementing comprehensive records management software to manage OCWR records, including confidential ADR records, throughout the records life cycle. This will ensure the systematic and efficient control of the creation, maintenance, and retention of such records along with the transactions associated with them. In 2021, the OCWR made progress toward meeting Performance Measure 5.B.

#### C. Strategic Initiative

*Maintain an IT Modernization and Continuous IT Security Monitoring Program*

#### **Performance Measure 5.C**

*OCWR will ensure that associated Risk Management policies, processes, and standard operating procedures are documented. Engage with the Library of Congress (LOC) Office of the Chief Information Officer and an independent assessor to install the tools and services for establishing the Information Security Continuous Monitoring (ISCM) and Continuous Diagnostics and Mitigation (CDM) process for OCWR's mission critical IT systems. OCWR IT will effectively support outreach and education programs by fully implementing a participant feedback survey system.*

In 2021, OCWR ensured that risk management policies, processes and standard operating procedures were fully documented. The OCWR utilized LOC IT resources and adhered to LOC ISCM and CDM processes for OCWR mission critical IT systems. In 2021, the OCWR made progress towards meeting Performance Measure 5.C.

#### **D. Strategic Initiative**

*Maintain an IT Governance, Risk Management, and Information Security Compliance Program*

#### **Performance Measure 5.D**

*OCWR will establish clear and direct service level objectives and service level targets which represent, protect the interests of, and help meet the OCWR's mission. These are specified in all service level agreements with IT vendors that offer products and provide IT services to the OCWR. With the support of an independent assessor, the OCWR will establish and implement the principles of National Institute of Standards and Technology's (NIST) Risk Management Framework (RMF). OCWR IT will support action item achievement throughout the Strategic Plan such that timeliness is impacted in less than 15% of deliverables.*

In 2021, the OCWR began working with an independent assessor to implement the NIST RMF. Further, OCWR IT supported Strategic Plan goals thoroughly such that progress has been made towards every single performance measure in 2021. The OCWR has made progress towards meeting Performance Measure 5.D in 2021.





# Vision

OCWR's progress towards our strategic goals during 2021 brings us ever closer to our vision of:

**A respectful, safe, healthy, and accessible congressional workplace with equal employment opportunity and treatment for all.**



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